

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of  
Engelhardt et al.  
Application No. 08/486,069  
Filed: June 7, 1995  
Atty Docket No. ENZ-  
5(D8)(C2)

OFFICE OF PETITIONS  
Ms. Nancy Johnson  
Senior Petitions Attorney

**MAIL STOP PETITION**  
Commissioner for Patents  
P.O. Box 1450

**REQUEST TO EXPUNGE THIS CONFIDENTIAL APPLICATION FROM  
ORDERS TO SHOW CAUSE UNDER 37 CFR 1.181**

The USPTO issued on July 9, 2008 an order to show cause why a decision to revive the above-captioned application and a number of other applications should not be vacated. At the direction of Ms. Nancy Johnson and Mr. Charles Pearson of the Office of Petitions, Enzo submitted via e-mail on July 31, 2008 a list of applications referenced in the Orders to Show Cause that are statutorily required to be preserved in confidence by the USPTO and requested that information about these applications be removed from the publicly available Orders to Show Cause. *See* 35 U.S.C. § 122(a). As the Office of Petitions has yet to respond to that urgent request, Enzo now places this request in writing pursuant to 37 C.F.R. § 1.2, that all information regarding this confidential application referenced in the Orders to Show Cause be expunged from the public record.

Enzo respectfully points out that under 37 C.F.R. § 1.14, an unpublished application, as here, whether pending or abandoned, is maintained confidential unless it is relied upon for priority purposes by a published application or patent, a circumstance not present here.

It is manifest that information concerning this non-published and non-patented application has improperly been included in the publicly available Orders to Show Cause, contrary to 37 C.F.R. § 1.14(a). Enzo again draws attention to the fact that all currently issued and publicly available Orders to Show Cause, improperly include information relating to the present application.

Enzo again respectfully requests that all currently issued Orders to Show Cause be expunged from the public eye. To the extent that the concurrently filed Request to Vacate the Order to Show Cause is not favorably considered, it is respectfully requested that the Order to Show Cause be reissued so that this confidential application is not referred to in a publicly available document.

Thus, in any reissued Order, Enzo asks that reference to this confidential application be removed from (1) the caption, (2) both tables, and (3) the body of the Order. Enzo further request that any discussion of this confidential application be removed from the reissued Orders.

Enzo wishes to again emphasize the urgency of this request, as Enzo's rights are already being compromised by the public availability of this confidential information.

Since the inclusion in the Orders to Show Cause of confidential information concerning this application was a mistake on the part of the USPTO, no fee should be required for this Petition to Expunge. Nevertheless, if any fees are deemed necessary for grant of this petition, the USPTO is hereby authorized to charge any required fees to Deposit Account No. 50-2929, making reference to Docket No. J10008.


Please direct any remaining questions to the undersigned.

Respectfully submitted,

HERSHKOVITZ & ASSOCIATES, LLC

Dated: December 5, 2008

By:



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